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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,242	05/15/2001	Ryohei Sato	14632	8991
23389 7590 02/22/2008 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER DANIEL JR, WILLIE J	
			ART UNIT 2617	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/855,242

Applicant(s)

SATO, RYOHEI

Examiner

Willie J. Daniel, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment filed on 20 November 2007. **Claims 10-20** are now pending in the present application and claims 1-9 are canceled. This office action is made **Non-Final**.

Response to Appeal

2. In view of the appeal brief filed on 20 November 2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

(see Conclusion section).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tokoro (US 6,349,324)** in view of **Kall et al. (hereinafter Kall) (US 7,206,589 B1)**.

Regarding **claim 10**, Tokoro discloses a cellular telephone apparatus which has a cellular telephone set capable of originating a plurality of calls to a base station (see col. 4, lines 48-50; Fig. 1) and communicating with an accessory through sub-communication means (see col. 4, lines 56-58; Fig. 1 “ref. 22, 23”), and said accessory capable of communicating with said cellular telephone set through said sub-communication means (see Figs. 3 “ref. 37, 39-40, 202, 204”; 4 “ref. 205”), and can execute a communication function other than a voice communication function by said cellular telephone set through said sub-communication means (see col. 8, lines 49-62), where generating an infrared request signal for television-telephone connection, said cellular telephone set comprising:

cellular telephone transceiver means (e.g., radio communication unit 22, 23) for originating a plurality of calls to a base station (see col. 4, 46-58; Figs. 1-2);

sub-communication means for performing communication with said accessory by means of a call through a channel (see Fig. 3 “ref. 37 and 39-40”); and

control means for, causing said cellular telephone transceiver means to start originating a new call for voice communication with a remote cellular telephone set (see col. 14, lines 30-

51), where turning off the television-telephone when moving from one room to another to temporarily suspend the television conversation and allowing or continuing a telephone conversation based on audio signals teaches of deterioration of the channel or signal to not more than a predetermined level. As a note, turning off the television or moving from room to room causes deterioration or degradation of the signal between the television and portable telephone thus utilization of an image display is not necessary at that particular instance.,

said new call being other than a call used by the cellular telephone set to perform sub-communication with the accessory (see col. 14, lines 30-51), and said accessory comprises:

sub-communication means for performing communication with said cellular telephone set (see Fig. 3 “ref. 37, 39-40, 202, 204”; 4 “ref. 205”);

expression means for expressing a content transferred by said sub-communication means (see Figs. 1 “ref. 205 and 305”; 4 “ref. 205”). Tokoro inexplicitly discloses having the feature(s) said cellular telephone set comprising: channel monitoring means for monitoring channel quality of said sub-communication means; control means for, causing said cellular telephone transceiver means to start originating a new call when the channel quality of said sub-communication means has deteriorated to not more than a predetermined level, said accessory comprises: channel monitoring means for monitoring channel quality of said sub-communication means; and control means for, when the channel quality of said sub-communication means has deteriorated to not more than a predetermined level, notifying said cellular telephone set of the corresponding information. However, the examiner maintains that the feature(s) said cellular telephone set comprising: channel monitoring means for monitoring channel quality of said sub-communication means; control means for, causing

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said cellular telephone transceiver means to start originating a new call when the channel quality of said sub-communication means has deteriorated to not more than a predetermined level, said accessory comprises: channel monitoring means for monitoring channel quality of said sub-communication means; and control means for, when the channel quality of said sub-communication means has deteriorated to not more than a predetermined level, notifying said cellular telephone set of the corresponding information was well known in the art, as taught by Kall.

In the same field of endeavor, Kall discloses the feature(s) said cellular telephone set comprising: channel monitoring means for monitoring channel quality of said sub-communication means; control means for, causing said cellular telephone transceiver means to start originating a new call when the channel quality of said sub-communication means has deteriorated to not more than a predetermined level, said accessory comprises: channel monitoring means for monitoring channel quality of said sub-communication means; and control means for, when the channel quality of said sub-communication means has deteriorated to not more than a predetermined level, notifying said cellular telephone set of the corresponding information (see col. 4, line 62 - col. 5, line 7; col. 5, lines 14-17,23-30; Fig. 3). As a note, Kall at the least further discloses feature(s) control means for, causing said cellular telephone transceiver means to start originating a new call for voice communication with a remote cellular telephone set (see col. 4, line 62 - col. 5, line 7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Tokoro and Kall to have the feature(s) said cellular telephone set comprising: channel monitoring means for monitoring channel

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quality of said sub-communication means; control means for, causing said cellular telephone transceiver means to start originating a new call when the channel quality of said sub-communication means has deteriorated to not more than a predetermined level, said accessory comprises: channel monitoring means for monitoring channel quality of said sub-communication means; and control means for, when the channel quality of said sub-communication means has deteriorated to not more than a predetermined level, notifying said cellular telephone set of the corresponding information, in order to provide a method and a corresponding device for handling a multimedia call, such as a videocall, as taught by Kall (see col. 2, lines 15-19).

Regarding **claim 11**, the combination of Tokoro and Kall discloses every limitation claimed, as applied above (see claim 10), in addition Tokoro further discloses an apparatus according to claim 10, wherein said accessory comprises a videophone unit (see col. 7, lines 4-20; col. 4, lines 56-61; Fig. 1 “ref. 205”), where the system uses a television unit for generating video signals.

Regarding **claim 12**, the combination of Tokoro and Kall discloses every limitation claimed, as applied above (see claim 10), in addition Tokoro further discloses an apparatus according to claim 10, wherein said accessory comprises a musical unit (see col. 7, lines 4-20; Fig. 1 “ref. 205”), where the system uses a television unit for generating audio signals.

Regarding **claim 13-15**, the combination of Tokoro and Kall discloses every limitation claimed, as applied above (see claims 10-12), in addition Tokoro further discloses an apparatus according to claims 10-12, wherein said sub-communication means is infrared communication (see col. 4, lines 56-58; col. 5, lines 3-8; Fig. 1).

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Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tokoro (US 6,349,324)** in view of **Kall et al. (hereinafter Kall) (US 7,206,589 B1)** as applied to claims 10 above, and further in view of **Tryding (US 5,880,732)**.

Regarding **claims 16-18**, the combination of Tokoro and Kall discloses every limitation claimed as applied above in claims 10-12. The combination of Tokoro and Kall does not specifically disclose having the feature(s) wherein said sub-communication means is radio communication. However, the examiner maintains that the feature wherein said sub-communication means is radio communication was well known in the art, as taught by Tryding.

In the same field of endeavor, Tryding discloses the feature wherein said sub-communication means is radio communication (see col. 2, lines 52-61).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Tokoro, Kall, and Tryding to have the feature wherein said sub-communication means is radio communication, in order provide the usage of an external display monitor for the presentation of mobile telephone display information, as taught by Tryding (see col. 1, lines 39-42).

Regarding **claim 19**, Tokoro discloses a communication method for a cellular telephone apparatus including a cellular telephone set capable of originating a call in addition to a call for voice communication (see col. 4, lines 56-58; Fig. 1 “ref. 22-23”), and

an accessory capable of communicating with the cellular telephone set through a call by using a radio channel for sub-communication (see Figs. 3 “ref. 37, 39-40, 202, 204”; 4 “ref. 205”),

when the cellular telephone set can perform voice communication with a remote cellular telephone set (see col. 14, lines 30-51),

the cellular telephone set is allowed to perform voice communication with the remote cellular telephone set by originating a new call, other than a call used by the cellular telephone set to perform said sub-communication with the accessory (see col. 14, lines 30-51), where turning off the television-telephone when moving from one room to another to temporarily suspend the television conversation and allowing or continuing a telephone conversation based on audio signals teaches of deterioration of the channel or signal to not more than a predetermined level. As a note, turning off the television or moving from room to room causes deterioration or degradation of the signal between the television and portable telephone thus utilization of an image display is not necessary at that particular instance. Tokoro inexplicitly disclose having the feature wherein even if channel quality of a radio channel for the sub-communication has deteriorated to not more than a predetermined level. However, the examiner maintains that the features wherein even if channel quality of a radio channel for the sub-communication has deteriorated to not more than a predetermined level was well known in the art, as taught by Kall.

In the same field of endeavor, Kall discloses the feature wherein even if channel quality of a radio channel for the sub-communication has deteriorated to not more than a predetermined level (see col. 4, line 62 - col. 5, line 7; col. 5, lines 14-17,23-30; Fig. 3). As a note, Kall at the least further discloses feature(s) the cellular telephone set is allowed to perform voice communication with the remote cellular telephone set by originating a new call (see col. 4, line 62 - col. 5, line 7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Tokoro, Kall, and Tryding to have the feature wherein even if channel quality of a radio channel for the sub-communication has deteriorated to not more than a predetermined level, in order to provide a method and a corresponding device for handling a multimedia call, such as a videocall, as taught by Kall (see col. 2, lines 15-19).

Regarding **claim 20**, Tokoro discloses a communication method of communicating between cellular telephone apparatuses with each other, each of said apparatuses including a cellular telephone set capable of originating a call in addition to a call for normal voice communication (see col. 4, lines 56-58; Fig. 1 “ref. 22-23”), and an accessory capable of communicating with the cellular telephone set by making use of a radio channel for sub-communication through a call (see Fig. 3 “ref. 37, 39-40, 202, 204”; 4 “ref. 205”), comprising the steps of:

inputting a telephone number of a remote cellular telephone apparatus by operating a ten-key mounted in an originating cellular telephone apparatus so as to start the sub-communication (see col. 5, lines 36-42; Fig. 2 “ref. 16 and 16A”);

transmitting corresponding information through infrared light from the accessory to a cellular telephone set mounted in said originating cellular phone apparatus so as to originate a call (see col. 5, lines 56-63; col. 8, lines 48-53; Fig. “ref. 16A”);

starting communication from the cellular telephone set mounted in said originating cellular telephone apparatus to the remote cellular telephone apparatus through base stations (see col. 7, line 63 - col. 8, line 7; Fig. 1 “ref. 201, 301, 231-1, 231-2”) and

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activating display units to transmit and receive a sensed image signal and the like and display a corresponding images so as to perform videophone communication (see col. 12, line 8 - col. 13, line 7);

checking whether communication using a voice call can be performed between cellular telephone sets respectively mounted in said cellular telephone apparatuses (see col. 7, line 63 - col. 8, line 47), where the portable telephone outputting an electric wave conveying a calling signal to the closet base station, then an electric wave conveying the call signal is transmitted by the base station to another portable telephone for voice communications;

originating a new call from the cellular telephone set mounted in the originating cellular telephone apparatus to the cellular telephone set mounted in the remote cellular telephone apparatus, the new call being other than a call used for the sub-communication (see col. 7, line 63 - col. 8, line 47);

starting voice communication when the voice call is originated (see col. 7, line 63 - col. 8, line 47); and

terminating the sub-communication (see col. 14, lines 30-51), where turning off the television-telephone when moving from one room to another to temporarily suspend the television conversation and allowing or continuing a telephone conversation based on audio signals teaches of deterioration of the channel or signal to not more than a predetermined level. As a note, turning off the television or moving from room to room causes deterioration or degradation of the signal between the television and portable telephone thus utilization of an image display is not necessary at that particular instance. Tokoro does not specifically disclose having the features monitoring a channel quality of the sub-communication to

determine whether the channel quality has deteriorated to a predetermined level or less; if the channel quality is determined to be deteriorated to a predetermined level or less. However, the examiner maintains that the features monitoring a channel quality of the sub-communication to determine whether the channel quality has deteriorated to a predetermined level or less; if the channel quality is determined to be deteriorated to a predetermined level or less was well known in the art, as taught by Kall.

In the same field of endeavor, Kall discloses the features monitoring a channel quality of the sub-communication to determine whether the channel quality has deteriorated to a predetermined level or less; if the channel quality is determined to be deteriorated to a predetermined level or less (see col. 4, line 62 - col. 5, line 7; col. 5, lines 14-17,23-30; Fig. 3). As a note, Kall at the least further discloses feature(s) originating a new call from the cellular telephone set mounted in the originating cellular telephone apparatus to the cellular telephone set in the remote cellular telephone set (see col. 4, line 62 - col. 5, line 7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Tokoro, Kall, and Tryding to have the features monitoring a channel quality of the sub-communication to determine whether the channel quality has deteriorated to a predetermined level or less; if the channel quality is determined to be deteriorated to a predetermined level or less, in order to provide a method and a corresponding device for handling a multimedia call, such as a videocall, as taught by Kall (see col. 2, lines 15-19).

Response to Arguments

4. Applicant's arguments with respect to claims 10-20 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's arguments, the Examiner respectfully disagrees as the applied reference(s) provide more than adequate support and to further clarify (see the above claims for relevant citations).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

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access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,JR/

WJD,JR
18 February 2008



CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER